

United States Senate

WASHINGTON, DC 20510

March 8, 2010

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Vilsack:

Since June 2009, we have been urging the U.S. Department of Agriculture to implement the U.S. Forest Service Record of Decision (ROD) for the Arizona Snowbowl Facilities Improvements Project. Instead of implementing the ROD, the Department has been holding discussions with the affected tribes and Arizona Snowbowl to try to broker a “mutually beneficial outcome.” This effort disregards the ROD, a final decision of the agency, which should have been implemented upon the disposition of the last appeal nearly eight months ago when the United States Supreme Court declined to review the August 2008 Ninth Circuit decision.

In December 2009, the Department told the affected tribes and Arizona Snowbowl that it intended to make a decision by the end of the year. It, therefore, appeared the Department had recognized that the brokered outcome it had been seeking involving the buyout of the Snowbowl operation by tribal governments was not forthcoming. Unfortunately, however, the Department did not then take any steps to implement the ROD.

Now, the Department has informed the affected tribes and Arizona Snowbowl that it plans to play a “critical facilitating role” in what it characterizes as a “three-part solution” involving the city of Flagstaff’s water resources. This proposal is even more perplexing and inappropriate than the proposed Snowbowl buyout. The Department is acting outside its jurisdictional purview in facilitating this solution and inserting itself into Flagstaff’s water management decisions, as well as, potentially, a Navajo water dispute involving the Navajo and Hopi tribes. Furthermore, the authority of the city of Flagstaff to contract with Arizona Snowbowl to provide reclaimed water for snowmaking is not subject to a decision by the Department.

This solution, as we understand it, would commit nearly \$11 million in federal taxpayer money to construct a pipeline to transport 180 million gallons per year of recovered reclaimed water from Flagstaff’s municipal water supply wells to Arizona Snowbowl for snowmaking. Not only do we view this approach as an egregious waste of taxpayer money and a departure from

the 2005 ROD, but we also believe it displays a total disregard for Arizona's water management challenges. Moreover, we have reservations about the Department's pledge to use Rural Development grants and loans to construct a pipeline for snowmaking as it is uncertain whether the greater Flagstaff area is even eligible for rural development assistance or whether the Department can redirect what are generally competitively awarded funds to this pipeline project. Additionally, the Department has not addressed whether this pledge of funds will come at the expense of other rural communities in Arizona that have documented eligible needs for rural development assistance.

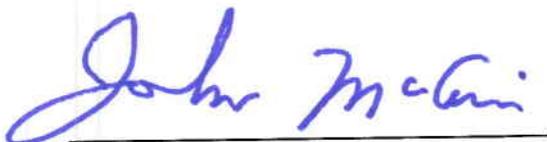
We oppose the use of taxpayer dollars to subsidize snowmaking at Arizona Snowbowl, and we will object to any attempt to secure an earmark or congressional approval of this project. As you may recall, the Department stated specifically in the final Environmental Impact Statement on the project that the federal government would not fund or subsidize snowmaking or any needed infrastructure.

It is also unclear how this solution solves the affected tribes' cultural and spiritual concerns associated with reclaimed water use. It has been explained to us that the alternative water supply that would be delivered, called "stored water," is actually recovered reclaimed water that has passed through the Rio de Flag wastewater reclamation plant and is later recovered from Flagstaff's municipal water supply wells downstream. Since both A+ reclaimed water and "stored water" are potable, meeting federal Safe Drinking Water Standards, we wonder how this solution resolves the tribal concerns regarding reclaimed water. Have the tribes officially taken a position that they support "stored water" but not A+ reclaimed water; and if so on what basis?

Finally, we have serious concerns about any attempt to interject this issue in the ongoing Navajo/Hopi water settlement negotiations. The issues in those potential settlements are completely unrelated to the Snowbowl issue and, could greatly complicate those negotiations. Flagstaff's ability to develop alternative water supplies should not be held hostage by the Department's unwillingness to implement the ROD.

We respectfully request that the Department discontinue its involvement in this new solution and implement the ROD for the Arizona Snowbowl Facilities Project immediately.

Sincerely,



Senator John McCain



Senator Jon Kyl